

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

U.S. Ethernet Innovations, LLC,

NO. C 10-03724 JW

NO. C 10-05254 JW

Plaintiff,

v.

**ORDER FOLLOWING TUTORIAL
HEARING; ORDER RELATING CASES
FOR CLAIM CONSTRUCTION
PURPOSES**

Acer, Inc., et al.,

AT&T, Inc., et al.,


Defendants.

On February 25, 2011, the Court conducted a tutorial of the patents-in-suit. In light of the parties' presentations at the tutorial and the discussion at the conference, the Court ORDERS as follows:

- (1) Upon review and consideration of the technology involved and the nature of the dispute, the Court finds a single Markman to construe all the disputed claims would be more efficient than any bifurcation at this time. Thus, the Court will conduct a claim construction hearing and issue a Claim Construction Order that will serve as the law of the case prior to bifurcation.
- (2) Once the Claim Construction is issued, the Court will invite cross-briefing from the parties to address the issues identified at the tutorial, namely, remedy exhaustion and direct versus indirect infringement of the patents-in-suit and any other additional issues the Court may identify following the claim construction hearing;

- (3) Although it is the Court's practice to not relate cases that are already assigned to it, the Court orders that C 10-5254 JW be related to C 10-3724 for the purposes of claim construction coordination. The Court lifts the stay imposed in C 10-5254 JW so that the parties in the AT&T can meet and confer with the Defendants in the Acer case and participate in the claim construction process.
- (4) On **March 28, 2011 at 10 a.m.**, the Court will conduct an Initial Case Management Conference.
- (5) On or before **March 18, 2011**, the parties shall meet and confer and submit a Joint Statement and Proposed Schedule in accordance with Patent L.R. 2-1. Specifically, the parties shall address the timing and structure of the claim construction briefing and presentation. In particular, the Court is concerned with which Defendants will take an active role in the claim construction process. Defendants shall meet and confer and if feasible, designate lead attorneys who will represent the interests of all Defendants at the Markman.

Dated: March 7, 2011


JAMES WARE
United States District Chief Judge

United States District Court

For the Northern District of California

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

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17 **Dated: March 7, 2011**

Richard W. Wieking, Clerk

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19 **By: /s/ JW Chambers**
Elizabeth Garcia
Courtroom Deputy
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